

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 09/22/04.

The IRO reviewed office visits, electrical stimulation, manual therapy, DME, traction, therapeutic exercises and therapeutic activities (group) for dates of service 11/10/03 through 02/11/04 that was denied based upon "U".

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

The CPT Codes 97140 for date of service 11/10/03; 99212 for dates of service 12/15/03, 01/05/04, 01/29/04; 99214 for date of service 02/11/04; 97110 for dates of service 02/04/04 and 02/11/04; and 97112 for date of service 02/11/04 **were** found to be medically necessary. All remaining dates of service **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for office visits, electrical stimulation, manual therapy, DME, traction, therapeutic exercises and therapeutic activities (group).

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

On 11/14/04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

- CPT Code E1399 for date of service 11/10/03 denied as "N". A review of the pertinent medical records submitted per Rule 133.307(g)(3)(B) reveals that the DME billed on the HCFA-1500 was not documented on the medical records submitted for this date of service. Reimbursement is not recommended.
- CPT Code 99080-73 for date of service 02/11/04 denied as "U". Per Rule 129.5 the Work Status Report is a Commission required report and under the jurisdiction of MDR and not subject to IRO review. Therefore, per Rule 133.106(f)(1) reimbursement in the amount of \$15.00 is recommended.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees as follows:

- in accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- in accordance with TWCC reimbursement methodologies regarding Work Status Reports for dates of service after August 1, 2003 per Commission Rule 134.202 (e)(8);

- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Order is applicable to dates of service 11/10/03 through 02/11/04 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 28<sup>th</sup> day of January 2005

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf

Enclosure: IRO decision



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Specialty Independent Review Organization, Inc.

### Amended Report

November 5, 2004

Hilda Baker  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-05-0322-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor with a specialty in Rehabilitation. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

The injured employee, \_\_\_, was injured on \_\_\_ while working for Bone and Joint Clinic. She was apparently injured while bending over to pick up a box of Kleenex when she sneezed feeling lower back pain. She was treated by the company doctor who performed an MRI indicating an extruded fragment at L3/4 extending into the L4 lateral recess and encroaching the L4 nerve root. She was impaired by William Hicks, DC on 4/22/03 and granted an impairment of 5% WP. She apparently presented in mid November 2003 due to a reported exacerbation of her low back symptoms. She was given a home exercise protocol which was ineffective. She was provided with a lumbar ESI on 2/3/04 by Andrew McKay, MD. The records are not clear as to if and/or when the patient was returned to work.

Records were requested from all parties; however, only the requestor chose to respond to the request despite phone calls requesting records from the respondent. The requestor provided multiple records including but not limited to the following: neurodiagnostic testing of 11/12/03, lumbar myelogram, CT scan, x-rays dated 8/23/02, lumbar MRI of 7/19/02, SOAP and examination notes by Brett Garner, DC CCSP from 10/14/02 through xxx, impairment evaluation of 4/22/03 by William Hicks, DC, FCE of 4/22/03 by Dr. Hicks, notes from Andrew McKay, MD from 7/1/03 through 2/4/04, progress notes of Dr. Hicks from 11/10/03 through 2/11/04.

#### DISPUTED SERVICES

Disputed services include office visits, electrical stimulation, manual therapy, traction, therapeutic exercises and group exercises from 11/10/03 through 2/11/04.

#### DECISION

The reviewer disagrees with the previous adverse determination regarding: **97140:** (11/10/03) **99212:** (12/15/03, 01/05/2004, 1/29/04), **99214:** (2/11/04); 97110 (2/4/04, 2/11/04) and **97112:** (2/4/04, 2/11/04).

The reviewer agrees with the previous adverse determination regarding all remaining services not specifically identified above.

### BASIS FOR THE DECISION

The reviewer indicates that the 99204 code used on the visit of 11/10/03 is not the appropriate code. Medicare guidelines indicate that an established patient visit code should have been used in this instance. The usage of 97032 is not medically indicated as the provider failed to demonstrate the usage of this code versus G0283. No records were available by Dr. Garner from 11/11/03 through 12/11/03 making it difficult to determine what was happening during this timeframe. The manual therapy of 11/10/03 was approved as it was documented and reasonable for an acute exacerbation. The office visits were approved/disapproved as indicated due to the reviewer's review of the documentation and the application of Texas Labor Code 408.021. Therapeutic exercises and neuromuscular re-education were approved post-injection therapy by Dr. McKay as is the standard of practice.

### References:

Evidence Based Medical Guidelines: Van Tulder MW et al. Exercise therapy for low back pain. The Cochrane Database of Systematic Reviews, Cochrane Library number: CD000335. In. The Cochrane Library, Issue 2, 2002. Oxford.

Hardy, Russell, Jr. Lumbar Disc Disease. New York: Raven Press, 1993.

Malone, Terry R., Thomas McPoil, and Arthur J. Nitz. Orthopedic and Sports Physical Therapy. St. Louis: Mosby, 1997.

Torg, Joseph S., Joseph J. Vegso, and Elizabeth Torg. Rehabilitation of Athletic Injuries. An Atlas of Therapeutic Exercise. Chicago: Year Book Medical Publishers, Inc, 1987.

Wisneski, Ronald, et al. "Lumbar Disc Disease." The Spine. Herkowitz, H.N., et al., eds. Philadelphia: W.B. Saunders, 1999. 613-673.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO  
CC: Specialty IRO Medical Director